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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
SIXTH APPELLATE DISTRICT

THE PEOPLE,

Plaintiff and Respondent,

v.

STANLEY JONES,

Defendant and Appellant.

H045372

(Santa Clara County

Super. Ct. No. F1660706)

Defendant Stanley Jones pleaded guilty to possession of a firearm by a felon, a felony (Pen. Code, § 29800, subd. (a)(1)),<sup>1</sup> and resisting, delaying or obstructing a peace officer in the performance of his/her duties, a misdemeanor (§ 148, subd. (a)(1)). He also admitted that he had been previously convicted of two strike offenses (§ 667, subds. (b)-(i)). On October 27, 2017, the court imposed a sentence of 32 months in state prison.

Defendant filed a timely notice of appeal, and we appointed counsel to represent him in this court. Appointed counsel has filed an opening brief that states the case and facts but raises no issue. We notified defendant of his right to submit written argument on his own behalf within 30 days. The 30-day period has elapsed and we have received no response from defendant.

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<sup>1</sup> All further statutory references are to the Penal Code unless otherwise stated.

Pursuant to *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*) and *People v. Kelly* (2006) 40 Cal.4th 106 (*Kelly*), we have reviewed the entire record. Following the California Supreme Court's direction, we provide "a brief description of the facts and procedural history of the case, the crimes of which the defendant was convicted, and the punishment imposed." (*Kelly, supra*, at p. 110.)

## **I. FACTUAL BACKGROUND<sup>2</sup>**

On June 20, 2016, officers on patrol at the Gilroy Transit Center observed defendant ride by on his bicycle holding an open container of malt liquor. Officers requested defendant to stop and he complied. After the officers told defendant that he was in violation of an open container law, he placed the bottle in a garbage can. When asked if he was carrying any weapons, defendant responded that he had a knife.

While conducting a search of defendant's person, the officers learned that defendant had an outstanding warrant. As the officers were applying handcuffs, defendant attempted unsuccessfully to run away. The officers took defendant to the ground to control him and again asked him if he had any weapons. Defendant responded that he had a gun in his front pocket. A loaded handgun was located during a search of defendant. He told the officers he had intended to run from them so that he could hide the handgun because he was aware that possessing it as a convicted felon was a crime.

## **II. PROCEDURAL BACKGROUND**

Defendant was charged by a two-count information on March 9, 2017, with possession of a firearm by a felon, a felony (§ 29800, subd. (a)(1)), and resisting, delaying or obstructing a peace officer in the performance of his/her duties, a misdemeanor (§ 148, subd. (a)(1)). It was also alleged in the information that defendant had been previously convicted of two strike offenses (§ 667, subds. (b)-(i)), namely,

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<sup>2</sup> The record disclosing the facts underlying the charged offenses is based upon the probation report.

discharge of a firearm at an inhabited dwelling (§ 246), and assault with a deadly weapon (§ 245, subd. (a)(2)).

On June 22, 2017, defendant pleaded guilty to the two charged offenses, and he admitted the two prior strike allegations. The court found that defendant had knowingly and voluntarily waived his rights in entering the guilty plea, and it found further that there was a factual basis for the plea.

Defendant filed a request that the court exercise its discretion to dismiss the prior strike allegation for purposes of sentencing under *People v. Superior Court (Romero)* (1996) 13 Cal.4th 497 (*Romero*). The prosecution opposed the *Romero* motion. On October 27, 2017, the court denied defendant's *Romero* motion. It imposed a sentence of 32 months in prison with a total of 25 days of custody credit.<sup>3</sup>

Defendant filed a timely notice of appeal. In the appeal notice, defendant indicated the appeal was based upon the sentence or other matters occurring after the plea that did not affect the validity of the plea.

### **III. DISCUSSION**

Having carefully reviewed the entire record, we conclude that there are no arguable issues on appeal. (*Wende, supra*, 25 Cal.3d at pp. 441-443.)

### **IV. DISPOSITION**

The judgment is affirmed.

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<sup>3</sup> Citing *People v. Vargas* (2014) 59 Cal.4th 635, defense counsel requested that the court treat the two prior strike offenses alleged in the information as a single strike, arguing that the two convictions arose out of the same incident. The court declined defense counsel's request, but it indicated that irrespective of whether one or two strikes were involved in the matter, the sentence would be the same.

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BAMATTRE-MANOUKIAN, ACTING P.J.

WE CONCUR:

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MIHARA, J.

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DANNER, J.

*People v. Jones*  
**H045372**